



MCKENNA

October 24, 2024

Mr. Darwin McClary, Village Manager
Village of Lake Orion
21 East Church Street
Lake Orion, Michigan 48362

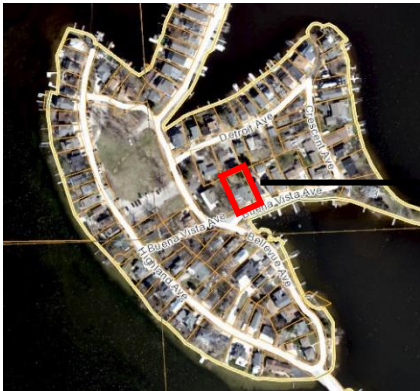
Subject: 638 Buena Vista Avenue: Rezoning Review #1

Mr. McClary:

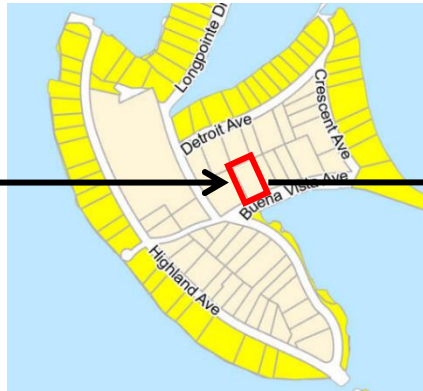
We have reviewed the application submitted by Mr. and Mrs. Dave and Carren Otto, to rezone the subject site (Parcel ID: 09-02-354-020) from the RV, Village Single-Unit Residential District to the RL, Lake Single-Unit Residential District. The property – which is currently occupied by the Otto’s single-unit home – was recently approved for several variances by the Board of Zoning Appeals (July 11, 2024) to construct an addition which includes a second two-car garage, terrace, and additional improvements. As a condition of this approval, the Otto’s were required to rezone their property to the RL District, which carries smaller setback and alternative garage placement standards, thereby minimizing (or eliminating) the variances requested. This report is provided to ensure that the proposed rezoning is in substantial compliance with the Village’s Zoning Ordinance, Master Plan, and planning and zoning best practices.

EXISTING CONDITIONS

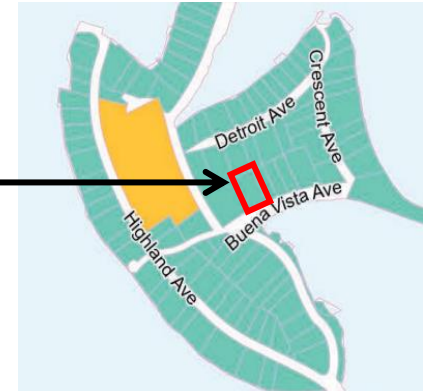
Property Gateway Parcel Map
Oakland County



Zoning Map, 2023
Village of Lake Orion



Future Land Use Map, 2022
Village of Lake Orion



RV - Village Single Family Residential
RL - Lake Single Family Residential

Lake Single-Family Residential
Village Single-Family Residential

HEADQUARTERS
235 East Main Street
Suite 105
Northville, Michigan 48167

☎ 248.596.0920
☎ 248.596.0930
MCKA.COM

Communities for real life.



Existing Land Use		Current Zoning	Future Land Use
*Subject Site	Single-Unit Home	Village Single-Unit Residential	Lake Single-Unit Residential
North	Single-Unit Home	Village Single-Unit Residential	Lake Single-Unit Residential
South	ROW / Water	Lake Single-Unit Residential	Lake Single-Unit Residential
East	Single-Unit Home	Village Single-Unit Residential	Lake Single-Unit Residential
West	Single-Unit Home	Village Single-Unit Residential	Lake Single-Unit Residential

RECOMMENDATION

It is recommended that the Planning Commission recommend approval of the proposed Zoning Map amendment for Parcel ID: 09-02-354-020 to be rezoned from RV, Village Single-Unit Residential District to RL, Lake Single-Unit District to Village Council based on the following findings of fact:

1. The proposed rezoning is consistent with the existing land use patterns of the surrounding parcels, which have transitioned from small, seasonal cottages to larger primary dwellings with premier lake frontage. Given the highly variable (often smaller) lots located in these waterfront (and near-waterfront) areas, the proposed rezoning will support continued investment in Village neighborhoods.
2. Rezoning the property to the RL District is compatible with surrounding zoning, which includes RV zoning on adjacent lots and RL zoning further out. The RL District supports the same uses (primarily single-unit homes) as the RV District but carries slightly different development standards.
3. The dimensional requirements of the requested rezoning district (RL) can be more easily met than if the lot were to continue as RV. As stated, this is a condition of BZA approval for variances in the currently-zoned RV district; rezoning to RL would effectively minimize (or eliminate) the variances, thereby supporting the intent and purpose of the Village Zoning Ordinance and Master Plan.
4. With development trends geared toward larger primary dwellings, which generally meets the standards of the Zoning Ordinance the proposed rezoning will allow future development of the property to more-readily contribute to neighborhood vitality and economic development in the Village.
5. The request supports a variety of objectives of the 2002 adopted Master Plan and the 2022 Future Land Use and Zoning Plan amendment, making investment into this and surrounding properties more desirable to private owners.
6. The proposed rezoning will not create a “spot” zone as it is in alignment with the Master Plan due to the location/existing conditions of the subject site.



REZONING REVIEW

In accordance with the rezoning criteria of Article 19 of the Zoning Ordinance, we offer the following comments for your consideration:

1. Would the rezoning be consistent with other land uses in the area?

The existing use of the property will not change. The proposed rezoning is consistent with the existing land use patterns of the surrounding parcels, which have transitioned from small, seasonal cottages to larger primary dwellings with premier lake frontage. Given the highly variable (often smaller) lots located in these waterfront (and near-waterfront) areas, the proposed rezoning will support continued investment in Village neighborhoods. We have no expectation that this use will cause any harm to surrounding property owners or the Lake itself, provided appropriate development measures are taken.

2. Is the proposed zoning district compatible with the zoning classifications of surrounding land?

Rezoning the property to the RL District is compatible with surrounding zoning, which includes RV zoning on adjacent lots and RL zoning further out. The RL District supports the same uses (primarily single-unit homes) as the RV District but carries slightly different development standards.

3. Could all requirements in the proposed zoning classification be complied with on the subject parcel?

The dimensional requirements of the requested rezoning district (RL) can be more easily met than if the lot were to continue as RV. As a condition of BZA approval for variances from the currently-zoned RV district development standards, rezoning to RL would effectively minimize (or eliminate) the variances, thereby supporting the intent and purpose of the Village Zoning Ordinance and Master Plan.

4. Have conditions changed since the Zoning Ordinance was adopted?

The Zoning Ordinance received a complete update in 2007 with minor amendments through 2022. The current RV, Village Single-Unit zoning designation has remained the same over the years, limiting the extent of investment for larger, primary dwellings. As Lake Orion becomes an even more highly-desirable area, conditions are expected to remain in favor of this type of redevelopment.

5. Is the proposed rezoning consistent with both the policies and the uses proposed for that area in the Master Plan? If not, is the Plan current and reasonable, or does it need to be updated?

The following adopted goals and objectives of the 2002 Village Master Plan support the subject rezoning:

- Encourage and promote owner-occupied single unit dwellings in all neighborhoods;
- Improve living amenities in all residential neighborhoods through high standards of housing design and construction, and access to usable convenient open space.
- Create opportunities for single unit redevelopment...while maintaining current single-unit residential densities.
- Discourage the conversion of single unit dwellings to multiple unit housing.
- Maintain and improve the environmental quality of all residential areas and encourage and carefully monitor reinvestment in single unit housing areas, especially in blighted and low owner-occupied areas.

The 2022 Future Land Use and Zoning Plan – an adopted amendment to the Master Plan – further affirms the rezoning of this parcel, which supports lake-style residential development in this area under the Lake Single-Unit Residential future land use designation.



6. Will the amendment result in permissible exclusionary zoning?

No, the proposed rezoning will permit the continuance of orderly, residential development in this area of the Village.

Respectfully submitted,

McKENNA

Gage Belko, AICP
Associate Planner

Andrew Mancinelli
Assistant Planner

CC: Ms. Sonja Stout, Village Clerk, 21 E. Church St., Lake Orion, MI 48362 (stouts@lakeorion.org)

Mr. and Mrs. Dave and Caren Otto, Applicant, 638 Buena Vista Ave., Lake Orion, MI 48362 (djotto1000@gmail.com & carenotto8@gmail.com)



Village of Lake Orion

21 E. Church Street
Lake Orion, Michigan 48362
Tel 248.693.8391
Fax 248.693.5874
www.lakeorion.org

ZONING MAP/TEXT AMENDMENT APPLICATION

A petition for amendment of the Zoning Ordinance shall be submitted to the Village Clerk on this form. 15 copies of materials must accompany. They will be submitted to Planning, Village Attorney, and Village Council. Please refer to Page 2 of this application regarding documents to submit. Fees must be paid when submitting materials and application.

MAP AMENDMENT A change in the zoning designation on a parcel of land in the Village.

Site Address: 638 Buena Vista Ave. Parcel ID # (Refer to Tax Bill): OL-09-02-354-020
Common Name of Site: SINGLE FAMILY HOME Zoning District: RV-VILLAGE SPR
Name of Petitioner: DAVID & CAREN OTTO Address: 638 BUENA VISTA AVE.
Phone#: 586-707-9824 / 248-330-9694 Email Address: d.otto1000@gmail.com / CARENOTTO8@gmail.com

PROPERTY OWNER INFORMATION

Property Owner Name: DAVE & CAREN OTTO Address: 638 BUENA VISTA AVE.
Property Owner Phone #: (586) 707-9824 (Dave) (248) 330-9694 (Caren) E-Mail: Djotto1000@gmail.com carenotto8@gmail.com
Current Zoning Designation: Village- Single-Family Residential Proposed Zoning Designation: Lake Single-Family Residential
____ Legal Description ____ Proof of Ownership ____ Plot Plan ____ Statements
If Request is for a Conditional Re-Zoning Agreement ____ Conditional Rezoning Agreement
____ Fees \$1,000 - m. escrow

TEXT AMENDMENT A change in wording of a provision of the Zoning Ordinance.

Name of Petitioner: _____ Address: _____
Phone#: _____ Email Address: _____
____ Full Text of Current Article, Section and/or Paragraph ____ Full Text of Proposed Amendment ____ Statement
____ Fees

The Undersigned do hereby respectfully make application to and petition the Village of Lake Orion to Amend the Village Zoning Ordinance/Zoning map and agree to all submit all necessary fees:

Signature of Petitioner: _____ Date: _____
Signature of Property Owner: David Otto Date: 10/7/2024
Signature of Agent: _____ Date: _____
Signature of Property Owner: Caren J.O. Otto Date: 10/4/24



When submitting a Zoning Map or Text Amendment Application, please refer to the list below for items to submit with the application.

Map Amendment: A petition for map amendment (zoning designation change) shall contain, at a minimum, the following information:

- a. The name, address, and telephone number of the petitioner.
- b. A plot plan prepared under the direction of and sealed by one of the following professionals registered in the State of Michigan: Registered Architect, Registered Land Surveyor, Registered Civil Engineer, Registered Landscape Architect, or Registered Professional Community Planner, drawn to scale showing the property proposed to be rezoned showing:
 - i. The tax identification number and lot lines of all parcels included in the rezoning petition.
 - ii. All structures, if any, on the parcels proposed to be rezoned.
 - iii. The current zoning on the parcel(s) proposed to be rezoned and the zoning of all parcels within three hundred (300) feet of the perimeter of the parcel(s).
 - iv. The proposed zoning designation desired for the property.
- d. A statement as to why the property cannot be used or developed as zoned. *Village is requesting this zoning for our 3 vacancies*
- e. A statement as to why the requested zoning designation is more appropriate.
- f. A statement as to how the requested zoning designation relates to the Village of Lake Orion Master Plan. *Village Master Plan*
- g. A legal description of the property proposed to be rezoned.
- h. Proof of ownership and authorization of the owner to rezone the property. *Complies with designated zone on Master Plan*

Text Amendment: A petition for a text amendment shall contain, at a minimum, the name, address, phone number, and signature of petitioner. Please submit **15 copies each**: of the Full Text of Current Article, Section, and/or Paragraph of the Zoning Ordinance that is proposed to be amended; a Statement as to why the proposed amendment is needed; the proposed full text of the article, section, and/or paragraph that is being submitted for amendment.

****VILLAGE STAFF USE ONLY - DO NOT WRITE BELOW ****

Village of Lake Orion Zoning Map/Text Amendment Permit Worksheet

Reviewed by: _____ Date: _____ Parcel #: _____

Proof of Ownership Verified using: _____ Owner Signature(s): Yes / No

Plot Plan Copies Included: _____ Proposed Zoning Designation: _____ Statements: _____

Legal Description: _____

Village Fee: _____ Planner Escrow Fee: _____ Attorney Escrow Fee: _____

Date to Village Clerk _____ Date to Planning Commission: _____ Date to Village Council: _____

Is Subject Property Adjacent to Different Zoning Districts? Yes / No If Yes, explain: _____

Staked Survey or Additional Information Required: _____

Approval by: Zoning Administrator BZA PC VC

Remarks: _____

Map Amendment

- d.) LO Village is requesting change in zoning for 3 variances for our home.
- e.) The requested zoning designation is more appropriate by the LO and Gage at a village variance(s) request meeting on 7/11/2024.
- f.) The requested zoning designation to Lake Single-Family Residential aligns with the most recent Village of Lake Orion Master Plan.

Owners request refund of map amendment from \$1,000.⁰⁰ given on 10/8/2024.

Only/With 10/7/24 Cam S.C. Otto 10/4/24

VILLAGE OF LAKE ORION
21 E. CHURCH ST.
LAKE ORION, MI 48362
Phone : (248) 693-8391
LAKEORION.ORG

Received From: DAVID OTTO
Date: 10/08/2024 Time: 3:11:15 PM
Receipt: 46091 *** REPRINT ***
Cashier: HEDRICKC

REZONING 638 BUENA VISTA APPLICATION

ITEM REFERENCE	AMOUNT
-----	-----
ESCROW FEES/ESCROW DEPOSIT	
FEES/ESCROW DEPOSIT	\$1,000.00
-----	-----
TOTAL	\$1,000.00
CHECK 1287	\$1,000.00
Total Tendered:	\$1,000.00
Change:	\$0.00

KENNEDY SURVEYING, INC.

105 N. Washington St.
Oxford, Michigan 48371

Phone (248) 628-4241
Fax (248) 628-7191

Staked Survey

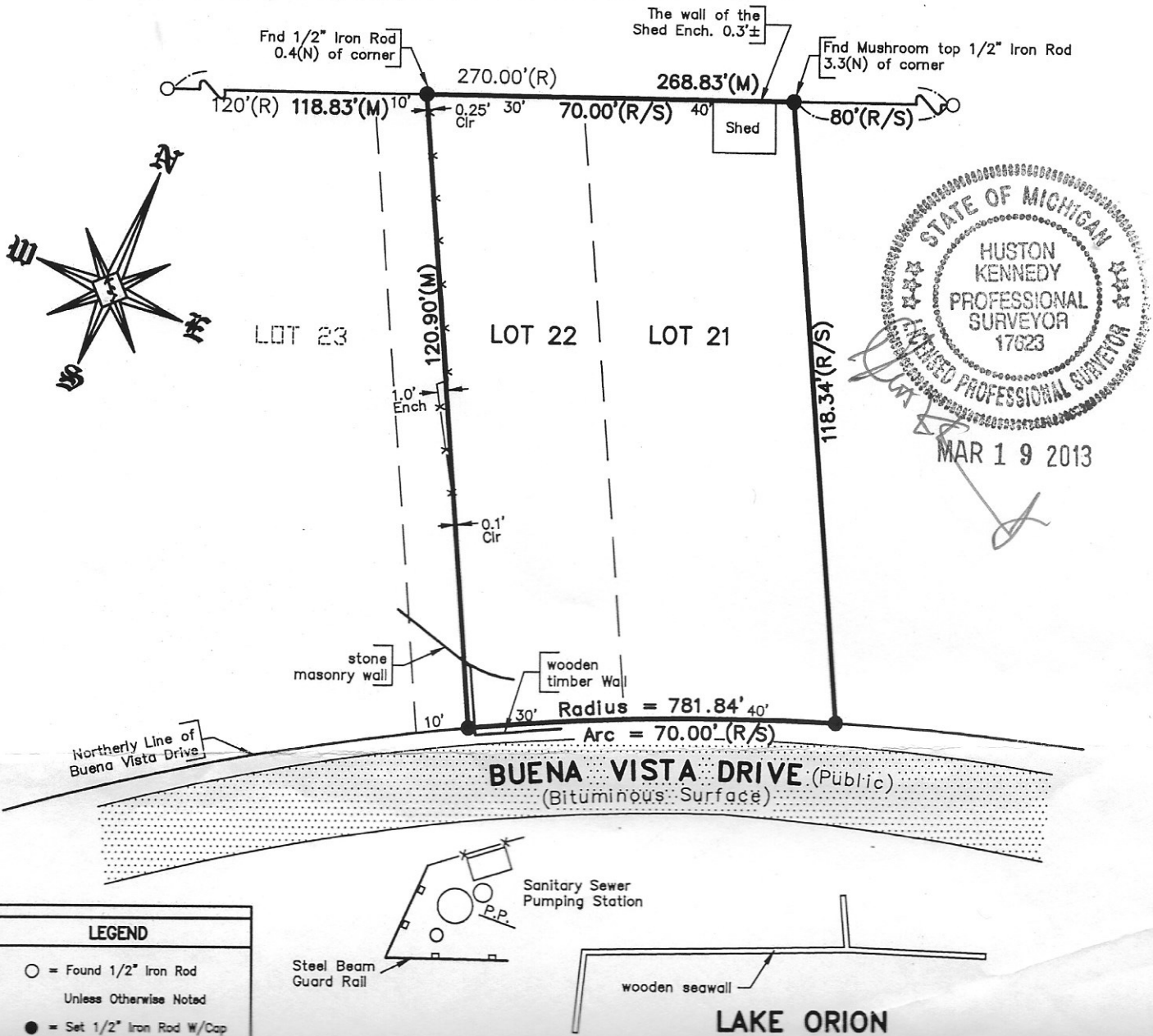
Certified Exclusively To: Mary Thorpe Date: March 19, 2013

Address: 1307 Park Boulevard, Lake Orion, Michigan 48302 Job No. 13-7025

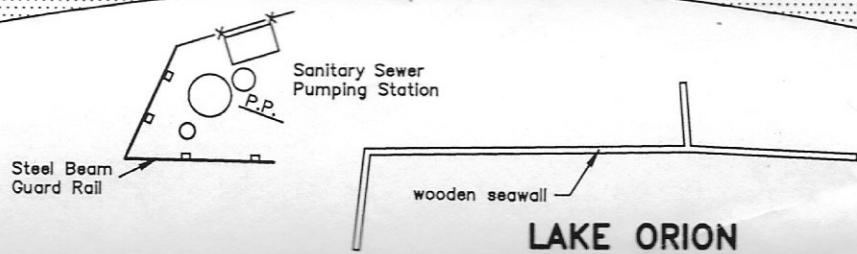
This is to certify that I, [Signature], Licensed Professional Surveyor, on this date have surveyed and mapped the land described as follows: Lot 21, and the Easterly 30 feet of Lot 22, Block 12, of "ORION IMPROVEMENT COMPANY'S SUBDIVISION NO. 1", being part of Section 2, 3 10 and 11, Town 4 North, Range 10 East, Village of Orion, Oakland County, Michigan. As recorded in Liber 4 of Plats, on Page 19 of Oakland County Records. Also a strip of submerged land on the southerly side of the above Lot 21 and portion of Lot 22.

SURVEYOR'S NOTES:

- 1.) This survey is based upon the description as cited on an "AFFIDAVIT OF SCRIVENER'S ERROR", recorded in Liber 41605, Page 593 of Oakland County Records.
- 2.) The width of the R/W for Buena Vista Drive is not stated on the Plat, however the south line of Buena Vista Drive apparently extends to the water's edge of Lake Orion in 1888.
- 3.) The last statement in the property description "ALSO A STRIP OF SUBMERGED LAND ON THE SOUTHERLY SIDE OF THE ABOVE LOT 21 AND PORTION OF LOT 22" is a very ambiguous statement. The statement does not give the width of the submerged strip of land and is adjacent to the southerly line of Buena Vista Drive, which is shown on the plat as extending to the water's edge in 1888, the date of the plat.
- 4.) All the monumentation that was recovered is either second or third generation, not original.
- 5.) With the information that is provided on the above mentioned plat regarding the angular relationship between the platted street right of ways lines and the lot lines, it is almost impossible to recreate this plat. Therefore, when I am doing a retracement survey in this plat, I hold the found monumentation, occupation lines and conservations with adjoining property owner's to help determine a "best fit". Occupation lines would include, but not limited to, fence lines, shrub or planting lines, hard surface lines and sea wall joints.



LEGEND	
○	Found 1/2" Iron Rod Unless Otherwise Noted
●	Set 1/2" Iron Rod W/Cap



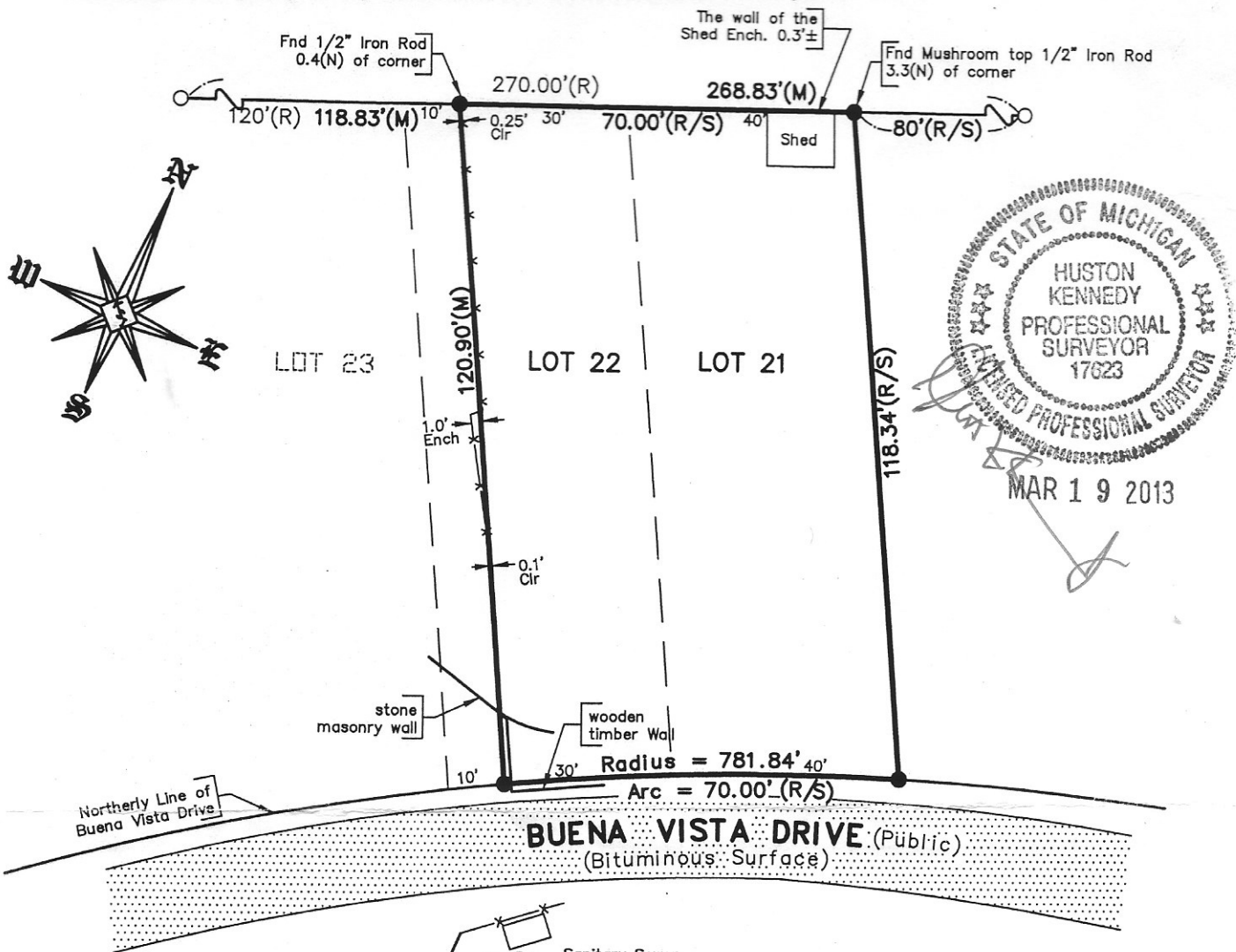
LAKE ORION



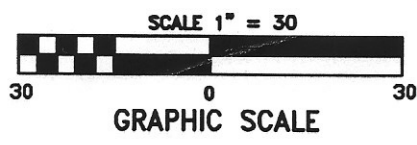
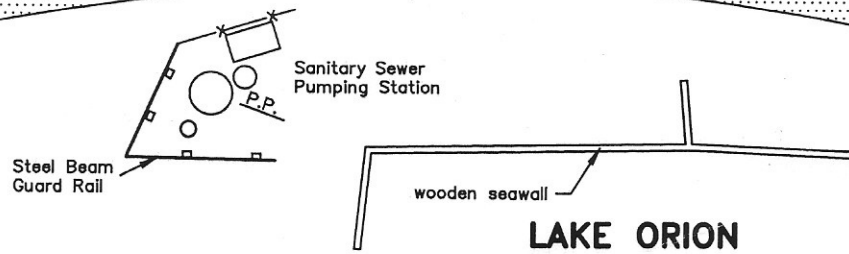
Village of Orion, Oakland County, Michigan. As recorded in Liber 4 of Plats, on Page 19 of Oakland County Records. Also a strip of submerged land on the southerly side of the above Lot 21 and portion of Lot 22.

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LEGEND	
○	= Found 1/2" Iron Rod Unless Otherwise Noted
●	= Set 1/2" Iron Rod W/Cap
⊙	= Found Concrete Monument
M	= Measured Distance
R	= Recorded Distance
S	= Set Distance
P.O.B.	= Point of Beginning
-*-*	= Ex. Fence Line
DWG No. 13-70251	
Drawn By: DKS	

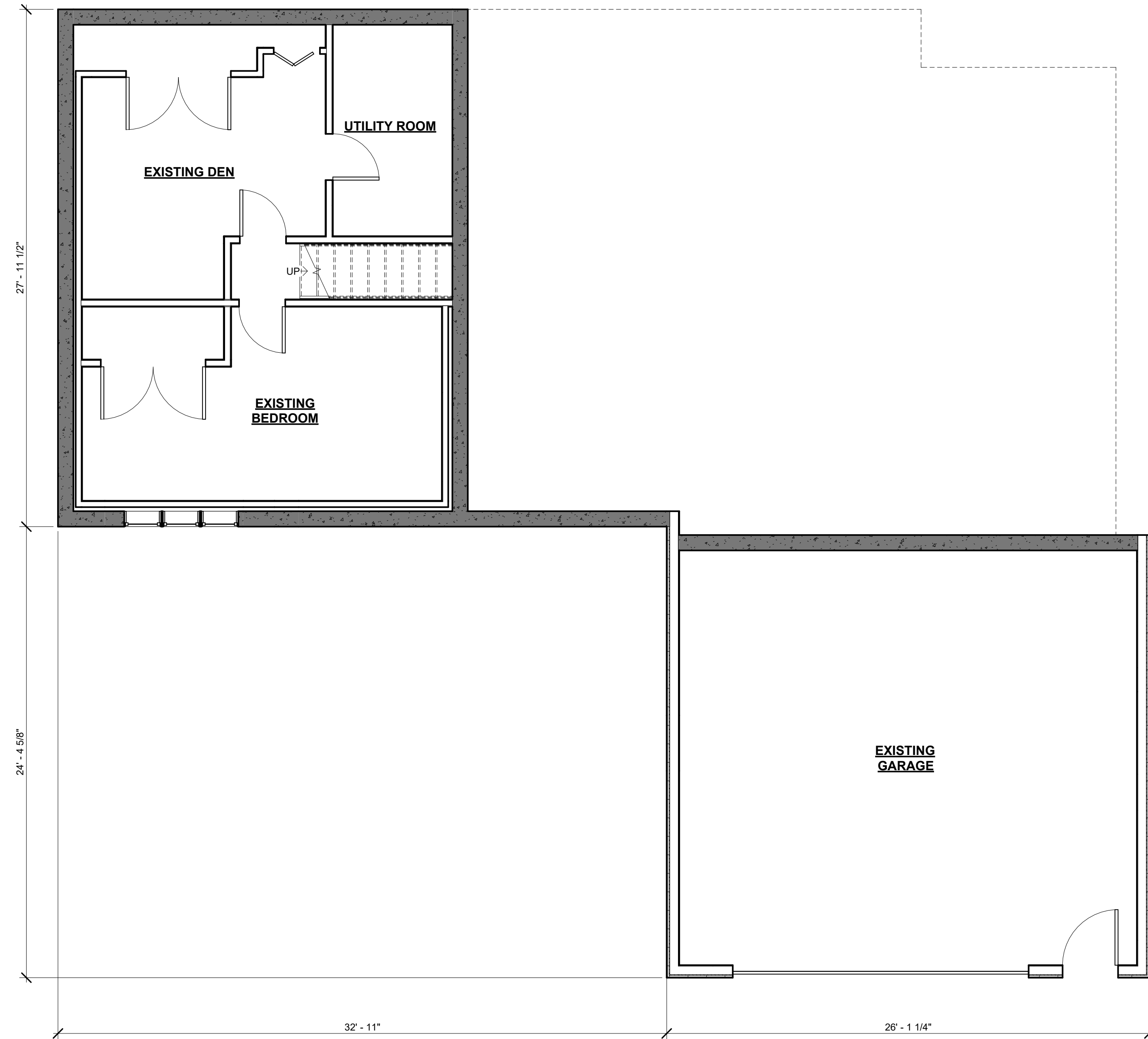


This survey was done without the benefit of a Title Policy, therefore, all easements of record and other factors relevant to title may not be shown.

When Recorded Please Return Original(s) To:
Kennedy Surveying, Inc.
105 N. Washington St.
Oxford, Michigan 48371



EXISTING



1 FOUNDATION PLAN - EXISTING
1/4" = 1'-0"

PROPOSED



2 FOUNDATION PLAN - PROPOSED
1/4" = 1'-0"

SCOPE OF WORK

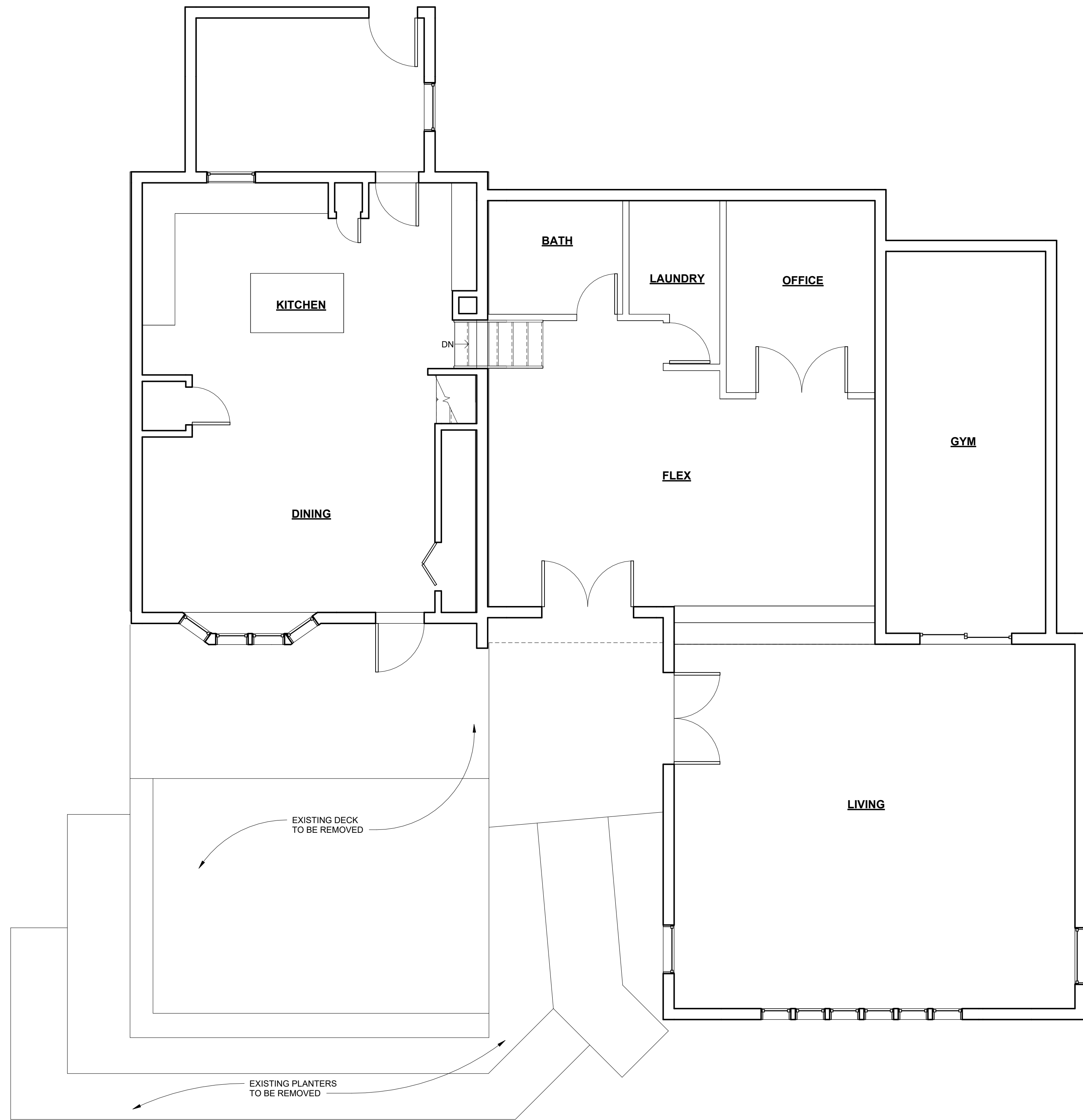
1. NEW STAIRS TO NEW ENTRY W/ FLANKING TIERED PLANTERS
2. NEW 23'-6"X20'-1" GARAGE
3. NEW ENTRY INTO BASEMENT FROM PROPOSED GARAGE
• NEW LAYOUT OF MUDROOM/ BEDROOMS TBD.
4. FULLY EXCAVATED STORAGE ROOM AND BREEZEWAY TO CONNECT EXISTING GARAGE TO PROPOSED GARAGE
5. OPTIONAL MAN DOOR TO PROPOSED GARAGE



PHONE: 248-620-3867
 ADDRESS: 5633 Sashabaw Rd,
 Clarkston, MI 48346
 EMAIL: info@olaxinc.com

DAVID AND CAREN OTTO
 638 Buena Vista
 Lake Orion, MI

EXISTING



2 **MAIN ENTRANCE - EXISTING**
1/4" = 1'-0"

PROPOSED



1 **MAIN ENTRANCE - PROPOSED**
1/4" = 1'-0"

SCOPE OF WORK

1. EXTEND MAIN ENTRANCE TO CONNECT TO FLEX SPACE AND LIVING ROOM
2. ADD COVERED PORCH WITH BREEZEWAY BETWEEN GARAGES UNDERNEATH
3. NEW STAIRS TO NEW ENTRY W/ FLANKING TIERED PLANTERS
4. NEW TIERED DECK OVER NEW GARAGE W/ CABLE RAILING
5. NEW FLOOR TO CEILING WINDOWS AND FRENCH DOOR (OR SLIDING) INTO DINING AREA
6. REMOVED EXTERIOR DOOR AT LIVING ROOM AND CREATED LARGE OPENING TO CONNECT THE SPACES
7. REPLACED AND ADDED WINDOWS AT THE LAKEFRONT FACADE OF LIVING SPACE



PHONE: 248-620-3867
 ADDRESS: 5633 Sashabaw Rd,
 Clarkston, MI 48346
 EMAIL: info@olaxinc.com

DAVID AND CAREN OTTO
 638 Buena Vista
 Lake Orion, MI

EXISTING



PROPOSED



ADDITIONAL PERSPECTIVES



OLAX

PHONE: 248-620-3867
ADDRESS: 5633 Sashabaw Rd,
Clarkston, MI 48346
EMAIL: info@olaxinc.com

DAVID AND CAREN OTTO
638 Buena Vista
Lake Orion, MI



MINUTES

SPECIAL MEETING OF THE BOARD OF ZONING APPEALS

Thursday, July 11, 2024

6:30 PM

Village Hall – 21 East Church Street, Lake Orion, MI 48362

(248) 693-8391 ext. 102

1. Call to Order

The July 11, 2024 Board of Zoning Appeals Special Meeting was called to order at 6:30 PM.

2. Roll Call and Determination of Quorum

PRESENT

Chairperson Bradley Mathisen

Vice Chairperson Raymond Putz

Secretary Brenton Bailo

Board Member/Planning Commission Representative Hank Lorant

ABSENT

Board Member Mary Chayka-Crawford

STAFF PRESENT

Village Planning and Zoning Coordinator Gage Belko

Village Clerk/Treasurer Sonja Stout

3. Designation of Alternate, as necessary

4. Approval of Agenda

MOTION made by Vice Chairperson Putz, Seconded by Secretary Bailo to approve the July 11, 2024 Special Meeting Agenda of Board of Zoning Appeals as presented.

VOTING YEA: Mathisen, Putz, Bailo, Lorant

VOTING NAY: None

ABSENT: Chayka-Crawford

MOTION: Carried

5. Approval of Minutes

A. Approval of BZA Minutes June 6th, 2024

MOTION made by Secretary Bailo, Seconded by Board Member/Planning Commission Representative Lorant, to approve the June 6th, 2024 Regular meeting minutes of Board of Zoning Appeals as presented.

VOTING YEA: Mathisen, Putz, Bailo, Lorant

VOTING NAY: None

ABSENT: Chayka-Crawford

MOTION: Carried

6. Public Comments on Non-Agenda Items Only

None.

7. Action Items

A. A-24-04 (638 Buena Vista) Variance Requests

MOTION made by Chairperson Mathisen, Seconded by Vice Chairperson Putz to open the Public Hearing.

VOTING YEA: Mathisen, Putz, Bailo, Lorant

VOTING NAY: None

ABSENT: Chayka-Crawford

MOTION: Carried

Chairperson Mathisen opened the public hearing at 6:32 PM.

Planner Belko provided a brief synopsis of variance request as stated in McKenna report with noting that item #2 is actually a 3.5 foot variance instead of the stated 4.5 ft variance. Planner Belko presented the recommendation for approving all the proposed variances subject to the property being lawfully rezoned within one (1) year to RL, Lake Single Family Residential, to align with zoning map and future land use map.

Anton Rozhanskiy with Olax, Inc, stated that there is no exterior/interior structure rebuild except for the kitchen as mentioned by the planner. Their plan is to reface the home to grant access to the house from the current garage and currently there is no access to the home from the garage.

The Board asked various questions directed towards Olax, Inc, representatives about their plans for improvement to the current structure and responses were provided.

Anton Rozhanskiy provided Chairperson Mathisen with a document that is attached and incorporated as part of the minutes that included various signatures from neighbors requesting the variance be approved.

Planner Belko went over procedures for approving the variances and his recommendation of attaching the condition to re-zone the property. He also went over the re-zoning procedures and that the property owner must initiate the process, then it must work through the proper

channels such first going to the Planning Commission Board then to Village Council for approvals. He said that construction can begin immediately. Planner Belko had asked if the homeowners, the Ottos, would be open to the re-zoning process before moving forward on a vote.

The Ottos inquired about the cost and process of the re-zoning process and asked various questions to Planner Belko. Planner Belko expressed his concern for the homeowner's hesitancy and possibly tabling the item until he felt the homeowners would have a better understanding of the process being requested.

Caren Otto, requested a short recess to discuss with the representatives from Olax, Inc, and Planner Belko to discuss their options before tabling the item.

MOTION made by Chairperson Mathisen, Seconded by Board Member/Planning Commission Representative Lorant to recess for 15 minutes.

VOTING YEA: Mathisen, Putz, Bailo, Lorant

VOTING NAY: None

ABSENT: Chayka-Crawford

MOTION: Carried

The Board took a recess at 7:02 PM.

The Board re-convened at 7:17 PM.

Board Member/Planning Commission Representative Lorant asked if the item needed to be tabled and expressed his concern if voted on, the repercussions of not being able to be brought back to the board for another year.

Matt Craig, 146 Bellevue Ave, supports the construction of the property but is unsure of the re-zoning process that is being requested.

MOTION made by Chairperson Mathisen, Seconded by Board Member/Planning Commission Representative Lorant to close the Public Hearing.

VOTING YEA: Mathisen, Putz, Bailo, Lorant

VOTING NAY: None

ABSENT: Chayka-Crawford

MOTION: Carried

Chairperson Mathisen closed the public hearing at 7:22 PM.

Chairperson Mathisen read an email from Tom and Mary Sakala expressing their support for granting the variance requests. The letter is attached and incorporated as part of the minutes.

The Board had discussion.

MOTION #1 made by Secretary Bailo, Seconded by Board Member/Planning Commission Representative Lorant to approve the requested variance from the minimum required front yard setback for accessory structures, as proposed, subject to the property being lawfully

rezoned within one (1) year to RL, Lake Single Family Residential, therefore conferring approval of a lesser variance of 5.5 feet, based on the findings of the Village Planning Consultant enumerated in a letter dated July 2, 2024.

VOTING YEA: Mathisen, Putz, Bailo, Lorant

VOTING NAY: None

ABSENT: Chayka-Crawford

MOTION: Carried

MOTION #2 made by Secretary Bailo, Seconded by Board Member/Planning Commission Representative Lorant to approve the requested variance from the minimum required side yard setback, as proposed, subject to the property being lawfully rezoned within one (1) year to RL, Lake Single Family Residential, based on the findings of the facts that is found in the Village Planning Consultant enumerated in a letter dated July 2, 2024.

VOTING YEA: Mathisen, Putz, Bailo, Lorant

VOTING NAY: None

ABSENT: Chayka-Crawford

MOTION: Carried

MOTION #3 made by Chairperson Mathisen, Seconded by Board Member/Planning Commission Representative Lorant to approve the requested variance from the minimum required accessory structure placement behind the front building line, as proposed, subject to the property being lawfully rezoned within one (1) year to RL, Lake Single Family Residential, based on the findings of the Village Planning Consultant enumerated in a letter dated July 2, 2024.

VOTING YEA: Mathisen, Putz, Bailo, Lorant

VOTING NAY: None

ABSENT: Chayka-Crawford

MOTION: Carried

B. Monthly Planning and Zoning Report

MOTION made by Chairperson Mathisen, Seconded by Board Member/Planning Commission Representative Lorant to receive and file.

VOTING YEA: Mathisen, Putz, Bailo, Lorant

VOTING NAY: None

ABSENT: Chayka-Crawford

MOTION: Carried

Board Member/Planning Commission Representative Lorant spoke.

Dr. Brenton Bailo spoke.

Board Member Putz spoke.

8. Next Regular Meeting - August 1st, 2024

9. Adjournment

MOTION made by Board Member/Planning Commission Representative Lorant, Seconded by Secretary Bailo, to adjourn the July 11, 2024 Board of Zoning Appeals Special Meeting.

VOTING YEA: Mathisen, Putz, Bailo, Lorant

VOTING NAY: None

ABSENT: Chayka-Crawford

MOTION: Carried

The July 11th, 2024 Board of Zoning Appeals Special Meeting adjourned at 7:34 PM.

Dr. Brenton Bailo
Secretary

Sonja Stout
Village Clerk/Treasurer

Date Approved: as presented on October 3, 2024.



MCKENNA

July 2, 2024

Board of Zoning Appeals
Village of Lake Orion
21 E. Church Street
Lake Orion, MI 48362-3274

Subject : A-24-04 : 638 Buena Vista Variance Requests
Parcel: OL-09-02-354-020

Board Members:

We have reviewed the above-referenced variance request application submitted by Anton Rozhansky (Olax Inc.) on behalf of David and Caren Otto (the "Applicants") who propose a 698-square-foot addition to the front of an existing ~2,655-square-foot single-family home located at 638 Buena Vista. This addition is part of a larger investment to update the property and will include an attached garage and rooftop patio; the existing patio and landscape retaining wall will be demolished to accommodate it. The property is located on Bellevue Island, north of Buena Vista Avenue and just east of Bellevue Avenue, within the RV, Village Single Family District.



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REQUEST

To build the proposed addition, the applicant is requesting three (3) variances from the Zoning Ordinance:

ARTICLE 12, SCHEDULE OF REGULATIONS, SECTION 12.02 TABLE – RV ZONING DISTRICT

- | | | |
|-----|---------------------------------|---|
| (1) | Front (Southeast) Yard Setback: | 22.85 feet minimum required (Established Front Setback)
16.1 feet existing (non-conforming)
14.5 feet proposed
8.35-foot variance requested |
| (2) | Side (Southwest) Yard Setback: | 10.0 feet minimum required
6.5 feet existing (non-conforming)
6.5 feet proposed (expanding the nonconformity)
4.5-foot variance requested |

SECTION 13.11, ACCESSORY BUILDINGS AND STRUCTURES – RV ZONING DISTRICT

- | | | |
|-----|----------------------------------|--|
| (3) | Placement (Front Building Line): | Behind front building line of existing residence
10.4 inch projection in front of existing residence
10.4-inch variance requested |
|-----|----------------------------------|--|

For the purposes of this letter, “Variance 1” references the Front Yard Setback variance request, “Variance 2” references the Side Yard Setback variance request, and “Variance 3” references the placement/projection variance request.



COMMENTS

Per Section 19.04.D.1 of the Village's Zoning Ordinance and the *Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended*, the Board must, prior to acting on a proposed variance, consider and make findings regarding several factors. The Board may grant a dimensional (or non-use) variance upon a finding that a practical difficulty exists.

To meet the test of practical difficulty, the Board must find evidence of ALL the following standards:

- (a) Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.**

Applicant response: Required setbacks prevent the owner from having an attached garage with direct access to the home.

The property is already in use for permitted purposes, with an existing single-family residence with an attached two-car garage. As discussed in **Item (d)** below, the subject property (specifically the lot itself) is not unique, save for the fact that it complies with Zoning Ordinance requirements for lot size (most lots near the lakefront do not comply with minimum standards and are nonconforming), which should make it easier to comply with established setback standards. The existing structure, however, is nonconforming regarding the side yard and front yard setback requirements, which the Applicants intends to increase. Under these circumstances, we find that the Applicants are more than capable of updating their home without increasing the structure's nonconformities and note that the existing attached two-car garage could reasonably be retrofitted to provide such direct access to the home, as they are already proposing several interior and exterior structural changes to this portion of the home.

- (b) The variance(s) will provide substantial justice to applicant as well as neighboring property owners.**

Applicant response: Existing conditions of the deck and stairs have become a safety concern for the owner and guests. Granting them the variance will allow the owner and guests to enter the home in a safe manner.

Because the Applicants occupy a compliant lot along the lake and for the reasons noted above under **Item (a)**, we do not find that there is any justice to be granted to the Applicants, as reasonable design alternatives would allow them to make necessary property investments without variances. In fact, upholding the Ordinance requirements would provide the ultimate justice to neighboring property owners and the Village, where most property owners make an effort to comply with the Ordinance. As discussed further under Item (f), approval of the variances may set a precedent for nearby properties that wish to increase the non-conformity of their structure(s), which would defeat the purpose of established Ordinance standards. Nothing in the Zoning Ordinance precludes the applicants from updating their home for safe, convenient access – this could be accomplished within the limits of the code.

- (c) The variance(s) requested is(are) the minimum variance(s) needed to provide substantial relief to the applicant and/or be consistent with justice to other property owners.**



Applicant response: We are requesting the minimum variance in order to comfortably fit the owner's cars into the new garage and directly enter the home.

From the renderings and plans, the entire home appears to be proposed for updates, both interior and exterior; however, we note that the applicant has not provided alternative design solutions that could rule out the need for variances. Variance 1 increases the extent of the nonconforming side yard encroachment for the placement of a second two-car garage and roof-top patio. Variance 2 increases the extent of structure encroaching into the Establish Front Setback and, further, the proposed accessory structure extends past the front building line of the existing home, resulting in the need for Variance 3.

While granting these variances would clearly provide relief to the Applicant, none of the requested variances are the minimum possible. As mentioned several times, with an existing attached garage, we find that alternative design solutions could be reasonably explored without further deviation from the Zoning Ordinance. Nonconforming structures are allowed to be repaired/modernized without variances, provided such improvements do not expand any nonconformity (or introduce new ones) and are less than 50% of the True Cash Value of the property.

(d) The need for variance(s) is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.

Applicant response: Without direct access to the home from the garage, the owners need to carry groceries, luggage, etc. outside and up a rotting and uneven stairway to the front door.

Per the table below, the subject site is not unique. Not only is it very similar to nearby properties in shape and dimension, but it also complies with the requirements of the Zoning District. Although the existing structure is nonconforming with regard to setback requirements, the Applicant will be increasing these. Overall, the need for variances is not due to the lot's non-conformity or other unique circumstances but is instead entirely self-created (see **Item (e)**).

RV District Schedule of Regulations (requested setback variances highlighted in grey):

Standard	Required	Existing	Proposed	Notes
Minimum Lot Width	60 ft.	70 ft.	70 ft.	Complies
Minimum Lot Area	7,200 sq. ft.	8,289.6 sq. ft.	8,289.6 sq. ft.	Complies
Maximum Building Height	30 ft.	<30 ft.	<30 ft.	Complies
Established Front Setback	22.85 ft.	16.1 ft.	14.5 ft.	<u>Increasing non-compliance</u>
Minimum Side Yard Setback	10 ft.	6.5 ft. (S.W.) / 5.8 ft. (S.E.)	6.5 ft. (S.W.) / 5.8 ft. (S.E.)	<u>Increasing non-compliance</u>
Rear Setback	25 ft.	>25 ft.	>25 ft.	Complies
Maximum Lot Coverage	40%	30.8%	36.32%	Complies
Minimum Floor Area	1,200 sq. ft.	2,256 sq. ft.	2,893.4 sq. ft.	Complies



Due to the property's location adjacent to Lake Orion and its classification on the Future Land Use map, the lot could be rezoned to the RL, Lake Single Family Residential District. This new zoning classification would maintain the property's compliance with Zoning Ordinance standards and remove the necessity for the side yard setback variance (which is 5 feet in the RL district) and the accessory structure placement variance, as attached accessory structures are allowed in front of a residence in the RL district and up to 20 feet from the street lot line, thereby also reducing the variance needed for the front yard setback. The Board of Zoning Appeals may consider approving the side yard setback variance as proposed and a lesser front yard setback variance of 5.5 feet (as opposed to the requested 8.35 feet) with the condition of having the property rezoned within one (1) year, to align the Zoning Map with the Future Land Use Map.

- (e) The problem and resulting need for the variance has been created by strict compliance with the Zoning Ordinance, and not by the applicant or applicant's predecessors; it is not self-created.**

Applicant Response: None provided.

The need for variances is entirely self-created, as the Applicant is taking affirmative action to demolish an existing structure on the property to accommodate an addition to the single-family dwelling, rather than simply modifying/upgrading the existing structure(s), which could be done without expanding or creating nonconforming dimensions.

- (f) Granting the variance will not impair the public health, safety, comfort, or welfare of the inhabitants of Lake Orion.**

Applicant Response: We designed the home to have minimal impact on surrounding properties by avoiding any additional light / air / view obstructions.

The variance requests for this particular application would have minimal negative impact on the public health, safety, comfort, and welfare of the inhabitants of Lake Orion. However, approving the variances without certain conditions is likely to set a perceived precedent for nearby properties that may wish to increase nonconforming structures on otherwise conforming lots, which may ultimately jeopardize the public welfare by undermining the Zoning Ordinance without due cause.



RECOMMENDATION

Subject to any additional information presented and discussed by the applicant, Board, and/or the public during the public hearing and incorporated into the record prior to any findings being made, we recommend that the Board of Zoning Appeals take the following actions:

Variance 1 – Front Setback:

Motion to approve the requested variance from the minimum required front yard setback for accessory structures in the, subject to the property being lawfully rezoned within one (1) year to RL, Lake Single Family Residential, therefore conferring approval of a lesser variance of 5.5 feet, based on the finding that:

- (1) Compliance with the ordinance standard (in the RV District) for front yard setbacks would not prevent the use of property for a permitted purpose – a two-car garage and deck already exist, which could be modernized to fit established zoning standards. A lesser variance could be achieved for the proposed addition through rezoning to RL, Lake Single Family Residential.
- (2) Substantial justice would not be afforded to the neighboring properties or the Village as a whole; a compliant lot with no clear unique properties should, logically, make it easier to comply with Zoning standards. Further, minimizing the mass of structures on the lake is imperative and variances must pertain to the characteristics of the property itself – not to accommodate an additional accessory use or structure. Upholding the Zoning Ordinance standards would confer justice to the neighboring properties and the Village. Justice would also be achieved through rezoning to RL, Lake Single Family Residential by reducing the need for a variance and aligning the property with the Future Lane Use map.
- (3) The variance requested is not the minimum possible, as the lot is large enough to accommodate investment without further deviation; the applicant has not provided evidence that alternative designs are impractical and must pursue such alternatives to achieve full compliance. The need for the variance would be reduced through rezoning to RL, Lake Single Family Residential.
- (4) The need for the variance is not due to any unique circumstances peculiar to the property; the lot is found to be conforming and similar (larger, in fact) to nearby properties. The need for the variance would be reduced through rezoning to RL, Lake Single Family Residential.
- (5) The need for the variance is entirely self-created; despite apparent plans to update and modernize the entire home, the applicant is taking action to construct a nonconforming addition without ruling out (design or rezoning) alternatives. The need for the variance would be reduced through rezoning to RL, Lake Single Family Residential.
- (6) Granting the variance may set a perceived precedent, undermining the purpose of the Zoning Ordinance and potentially jeopardizing public health, safety, comfort, or welfare in the Village. The need for the variance would be reduced through rezoning to RL, Lake Single Family Residential.

Variance 2 – Side Setback:

Motion to approve the requested variance from the minimum required side yard setback, as proposed, subject to the property being lawfully rezoned within one (1) year to RL, Lake Single Family Residential, based on the finding that:

- (1) Compliance with the ordinance standard (in the RV District) for side yard setbacks would not prevent the use of property for a permitted purpose – a two-car garage and deck already exist, which could be



modernized to fit established zoning standards. Compliance could also be achieved through rezoning to RL, Lake Single Family Residential, eliminating the need for the variance.

- (2) Substantial justice would not be afforded to the neighboring properties or the Village as a whole; a compliant lot with no clear unique properties should, logically, make it easier to comply with Zoning standards. Further, minimizing the mass of structures on the lake is imperative and variances must pertain to the characteristics of the property itself – not to accommodate an additional accessory use or structure. Upholding the Zoning Ordinance standards would confer justice to the neighboring properties and the Village. Justice would also be achieved through rezoning to RL, Lake Single Family Residential.
- (3) The variance requested is not the minimum possible, as the lot is large enough to accommodate investment without further deviation; the applicant has not provided evidence that alternative designs are impractical and must pursue such alternatives to achieve full compliance. The need for the variance would be eliminated through rezoning to RL, Lake Single Family Residential.
- (4) The need for the variance is not due to any unique circumstances peculiar to the property; the lot is found to be conforming and similar (larger, in fact) to nearby properties. The need for the variance would be eliminated through rezoning to RL, Lake Single Family Residential.
- (5) The need for the variance is entirely self-created; despite apparent plans to update and modernize the entire home, the applicant is taking action to construct a nonconforming addition without ruling out (design or rezoning) alternatives. The need for the variance would be eliminated through rezoning to RL, Lake Single Family Residential.
- (6) Granting the variance may set a perceived precedent, undermining the purpose of the Zoning Ordinance and potentially jeopardizing public health, safety, comfort, or welfare in the Village. The need for the variance would be eliminated through rezoning to RL, Lake Single Family Residential.

Variance 3: Accessory Structure Placement:

Motion to approve the requested variance from the minimum required accessory structure placement behind the front building line, as proposed, subject to the property being lawfully rezoned within one (1) year to RL, Lake Single Family Residential, based on the finding that:

- (1) Compliance with the ordinance standard (in the RV District) for accessory structure placement would not prevent the use of property for a permitted purpose – a two-car garage and deck already exist, which could be modernized to fit established zoning standards. Compliance could also be achieved through rezoning to RL, Lake Single Family Residential.
- (2) Substantial justice would not be afforded to the neighboring properties or the Village as a whole; a compliant lot with no clear unique properties should, logically, make it easier to comply with Zoning standards. Further, minimizing the mass of structures on the lake is imperative and variances must pertain to the characteristics of the property itself – not to accommodate an additional accessory use or structure. Upholding the Zoning Ordinance standards would confer justice to the neighboring properties and the Village. Justice would also be achieved through rezoning to RL, Lake Single Family Residential.
- (3) The variance requested is not the minimum possible, as the lot is large enough to accommodate investment without further deviation; the applicant has not provided evidence that alternative designs are impractical and must pursue such alternatives to achieve full compliance. The need for the variance would be eliminated through rezoning to RL, Lake Single Family Residential.



- (4) The need for the variance is not due to any unique circumstances peculiar to the property; the lot is found to be conforming and similar (larger, in fact) to nearby properties. The need for the variance would be eliminated through rezoning to RL, Lake Single Family Residential.
- (5) The need for the variance is entirely self-created; despite apparent plans to update and modernize the entire home, the applicant is taking action to construct a nonconforming addition without ruling out (design or rezoning) alternatives. The need for the variance would be eliminated through rezoning to RL, Lake Single Family Residential.
- (6) Granting the variance may set a perceived precedent, undermining the purpose of the Zoning Ordinance and potentially jeopardizing public health, safety, comfort, or welfare in the Village. The need for the variance would be eliminated through rezoning to RL, Lake Single Family Residential.

Should the Applicants fail to lawfully rezone their property to RL, Lake Single Family Residential within one (1) year to align with the planned Future Land Use of this area as a condition of the Board's approval of certain variances, such approved variances would be null and void and the Village shall cause for the abatement of any resulting violations of the Zoning Ordinance.

Should you have any questions, please reach out to us.

Respectfully,

McKENNA

Gage Belko, AICP
Associate Planner

Ashley E. Amey, NCI
Assistant Planner

cc: Village Clerk: Sonja Stout, 21 E. Church Street, Lake Orion, MI 48362
Applicant: David and Caren Otto, 638 Buena Vista, Lake Orion, MI 48362